

STATE OF MICHIGAN
CIRCUIT COURT FOR THE COUNTY OF MACOMB

In re Access to Court Records

Administrative Order 2005-3

This order is the policy of the Court as to information requests under MCR 8.119(E):

I. REQUESTS FOR ACCESS TO COURT FILES

- A. Requests to view court files may be made to the file room clerks at the window in the Clerk's Office.
- B. Files shall only be reviewed at the designated locations in the Clerk's Office and under the general supervision of the staff. Papers may not be removed nor notations made in the file by persons examining the files.
- C. A person wishing photocopies of files may receive copies upon payment of the cost of duplication. The Clerk's Office is allowed a reasonable time to provide copies. The Clerk may require that persons making voluminous requests provide advance notice and a reasonable time to make copies. The Clerk may require advance payment or an advance deposit. If certified copies are requested, the certification fee must be paid. If a person requesting copies is indigent, free copies will be provided upon the person obtaining an order waiving the fees. See MCR 2.002.
- D. The Clerk of the Court may also allow a person to request court documents by the Internet, e mail, fax, mail or telephone. A third party service may be used to transmit requests for documents to the Clerk. The third party may charge a reasonable fee for the cost of this service.
- E. If the desired file is not available in the file room because court personnel are using it, the person asking for the file should be encouraged to come back at a later time or date. If good cause is shown for immediate access, the Clerk should arrange, if reasonably possible, to have the file returned to the file room for examination. People should not be referred to judges' offices or other departments to look at files.
- F. The Clerk shall seal files only upon order of the Court under MCR 8.119(F). No person shall have access to sealed files without an order of the Court.

- G. The Clerk of the Court may require persons seeking high volume physical access to court files to examine them at a date, time and in a manner that does not interfere with the discharge of court functions. Advance notice of high volume requests for files may be required at the discretion of the Clerk.
- H. All requests for access, and physical access, shall occur during normal business hours of the Court.

II. REQUESTS FOR ACCESS TO FRIEND OF THE COURT RECORDS

Access to Friend of the Court records shall be governed by a separate Local Administrative Order, currently LAO 2003-4.

III. REQUESTS FOR ACCESS TO RECORDS OF THE FAMILY COUNSELING SERVICE

- A. Except as otherwise provided herein, the records of the Family Counseling Service are non-public records governed by the access rules set forth in Section IV, below.
- B. Communications in the course of referrals for counseling shall be confidential to the extent provided by law.
- C. On and after May 1, 1993, the release of written recommendations following a referral for evaluation by a Judge will be governed by MCR 3.219. Copies shall be forwarded to the Friend of the Court, attorneys of record, and any pro per parties with known addresses. If addresses are not known, copies will be forwarded on request. Parties represented by counsel shall obtain information from their counsel. This does not alter the confidentiality of information developed during counseling.

IV. REQUESTS FOR ACCESS TO OTHER COURT RECORDS AND REPORTS

- A. The written records of the Court, other than the court files, including administrative records, reports to the State Court Administrative Office and governmental agencies, internal administrative reports and personnel records are exempt from the Michigan Freedom of Information Act and are not to be released without approval of the Chief Judge. See MCL 15.232(d)(v). Requests for written records shall be made in writing, describing the records sought and the purpose of the request, to the Court Administrator and shall be referred to the Chief Judge for decision.
- B. When public inquiry is made about a non-public record, Clerk or Court personnel should state: 'No public record exists.' Clerk or Court personnel should not divulge any information regarding the record or file.

V. COMPUTER RECORDS

- A. The computer records of the Court are property of the Court, not the County of Macomb, the County Clerk or the Management Information Systems Department. As property of the Court, computer records are exempt from the Michigan Freedom of Information Act. See MCL 15.232(d)(v). Personnel of the County of Macomb, County Clerk and the Management Information Department are not to grant requests for access to Court information under their management without the approval of the Chief Judge. If non-routine requests are received for Court information, the requests are to be made in writing and forwarded to the Court Administrator, to be referred to the Chief Judge for decision.
- B. Persons seeking information on pleadings filed with the Court as listed on the computer may access this information on the terminal located on the counter in the Court Section of the Clerk's Office. This access shall be limited to pleadings docketed by the Clerk's Office.
- C. The Court and the County of Macomb shall have no duty to create compilations of information at the request of persons seeking information.
- D. Database searches and reports shall not be performed on the Court records for non-court personnel without the authorization of the Chief Judge. A request for searches and reports shall be in writing, describe the information sought and the purpose of the search. A request is to be forwarded to the Court Administrator to be referred to the Chief Judge for decision. If the Chief Judge grants a request for a database search and report, the person requesting the search shall pay the County of Macomb for the reasonable cost of the search and report. Customized database searches and/or reports are only to be performed if permission is granted by the Chief Judge and the preparation of the materials does not interfere with the operation of the Court, data processing or programming work or the operation of the Management Information Systems Department. The reasonable cost of designing, programming, and carrying out customized searches or reports shall be paid by the person making the request.
- E. In order to maintain the integrity of the Court's computer system and prevent over-use resulting in slow operation, outside electronic access to the system will not be allowed.
- G. The Integrated Computer System may extract data and may make it publicly accessible from the Internet as approved by the Chief Judge.

VI. REQUESTS FOR TRANSCRIPTS OR RECORDS BY INDIGENT PERSONS.

- A. Requests for free copies of documents or transcripts from indigent persons shall be referred to the Judicial Aide Office for review and response. The Clerk's Office shall make and mail copies when so directed by the Judicial Aide Office.
- B. A person seeking free copies by reason of indigency may be required to obtain an order waiving fees pursuant to MCR 2.002.
- C. Requests for free copies of transcripts or documents shall be made pursuant to MCR 6.433. Requests shall be referred to the Judicial Aide Office for an investigation and recommendation. The request shall then be submitted to the judge presiding over the case for review and decision. An order shall then be entered granting or denying the request.

VII. JUROR QUESTIONNAIRES

- A. Pre-trial access to juror questionnaires is governed by Macomb County Circuit Court Administrative Order 1987-1 and MCR 2.510.
 - 1. Requests for pre-trial access shall be made to the Court Section of the Clerk's Office by filling out the form available from the Clerk. Pre-trial access is only available under the Administrative Order for the entire array of jurors.
 - 2. Only attorneys and parties whose cases are scheduled for trial when a particular jury array is scheduled may have access to the personal history questionnaires of those jurors. Experts, staff members or others may not have access and may not accompany the attorney or party unless allowed by order of the trial judge. Verbatim tracing of signatures or the copying of other information is not allowed, although notes may be taken.
 - 3. If the request for access to questionnaires complies with Administrative Order 1987-1, the court rules and subsection 2, above, the Clerk shall allow the person to review the questionnaires under the supervision of the Court Section of the Clerk's Office.
- B. Post-trial access to juror questionnaires is allowed only pursuant to an order entered on a motion brought before the judge who tried the case and upon a showing of cause for access. The judge who tried the case has discretion as to whether to grant access, grant access with restrictions or deny access to questionnaires. See Collier v Westland Arena, 183 Mich App 251; 454 NW2d 138 (1990).

VIII. PROVISION OF FORMS BY CLERK

- A. Pursuant to MCR 8.110(C)(7), the Clerk of the Court shall provide litigants with selected forms approved by the State Court Administrative Office at a cost of \$1.00 per form. The Clerk may limit a person to a reasonable number of copies of each form requested per order.

IX. Local Administrative Order 2004-4 is REPEALED.

X. This Order is effective: _____

Antonio P. Viviano,
Chief Judge

Dated: